

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** JACOBUS P.C. KROON

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Appeal No. 1995-1052  
Application No. 07/944,562

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ON BRIEF

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Before RUGGIERO, DIXON, and GROSS, **Administrative Patent Judges**.  
DIXON, **Administrative Patent Judge**.

**DECISION ON APPEAL**

This is a decision on appeal from the examiner's final rejection of claims 10 and 13-19, which are all of the claims pending in this application.

We REVERSE.

## **BACKGROUND**

The appellant's invention relates to an information recording device, record carrier and information reading device on which successive independent pieces of time synchronous information are stored. The instant invention resolves a problem of unused track portions by storing information in as many released tracks portions as necessary. During read-out, from the carrier, the segmented recorded portions of the information piece in question are restored to their original time synchronous sequentially continuous relationship. An understanding of the invention can be derived from a reading of exemplary claim 10, which is reproduced below.

10. A record carrier comprising a recording track having information patterns recorded therein representing a plurality of pieces of time synchronous continuous information; characterized in that: at least one track portion has an information pattern recorded therein for a first complete information piece; said one track portion is located between and adjoining track portions in the track direction which have information patterns recorded therein for different segments of another information piece, each segment is of a length determined by the length of the track portion in which it is recorded; and control information is recorded in the recording track indicative of the locations of each of said adjoining track portions.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Hashimoto et al. (Hashimoto)	5,053,898	Oct. 01, 1991
Roth et al. (Roth)	5,212,678	May 18, 1993
	(effective filing date Sep. 28, 1990)	

Claim 10 stands rejected under 35 U.S.C. § 102 as being anticipated by, or in the alternative, under 35 U.S.C. § 103 as obvious over Roth. Claim 10 stands rejected under 35 U.S.C. § 102 as being anticipated by Hashimoto. Claims 13 -19 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hashimoto in view of Roth.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 16, mailed Aug. 26, 1994) for the examiner's reasoning in support of the rejections, and to the appellant's brief (Paper No. 14, filed Jun. 15, 1994) for the appellant's arguments thereagainst.

### **OPINION**

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

#### **35 U.S.C. § 102**

The examiner maintains that Hashimoto discloses at column 6 that control information can be recorded with a RF signal in order to determine the presence or absence of the RF signal and the control signal may be superimposed as a pulse signal

during the vertical blanking period in parallel with the recording of the RF signal. The examiner maintains that the recorded RF signal may comprise a first information piece recorded on a first track portion which is located between segments of a second piece of information which is recorded within separate track portions adjoining the first track portion. (See answer at page 4.) We disagree with the examiner. Here, the examiner has relied upon no teaching in Hashimoto to teach the invention as recited in claim 10. Therefore, we cannot sustain the rejection of claim 10 under 35 U.S.C. § 102.

**35 U.S.C. § 102 or 103**

The examiner maintains that the recording medium of appellant is the same as that taught by Roth, namely the permanent representation of the information stored thereon. (See answer at page 3.) The examiner maintains that the claimed information content on the record medium does not make a new record medium and the information is not functionally related to the record medium (citing **In re Gulack**, 703 F2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983)). (See answer at pages 3 and 6.) We disagree with the examiner. In our view, the storage of the time synchronous data in a specific organization on the medium with the recorded control information indicative of the locations of the adjoining track portions is more than merely stored nonfunctional data. This interrelated and organized data with its control

information allows additional storage of data and retrieval thereof. From our understanding of Roth, Roth is concerned mainly with the flow of data in the storage and retrieval of blocks of data to and from memory. We do not find any teaching in Roth which discloses the storage of segments of an information piece in a track portion adjoining a first information piece. Furthermore, under 35 U.S.C. § 103, the examiner maintains that the information content on the memory is not entitled to patentable weight and that it would have been obvious to skilled artisans to make a permanent representation of the information content. (See answer at page 3.) We disagree with the examiner. We find that the language of claim 10 includes more than just information content, but also includes the organization of the information and that the inclusion of control data is recorded in the recording track indicative of the locations of each of the adjoining track portions. The examiner has not addressed these limitations, and since the examiner has not identified any teachings in Roth to teach the invention as recited in claim 10, we cannot sustain the rejection of claim 10.

**35 U.S.C. § 103**

The examiner maintains that Hashimoto discloses the invention as recited in claim 13, but does not disclose a buffer means and control of the buffer. The examiner relies on the teachings of Roth to teach the use of input and output buffers to

compensate for differences in speed of the supply/receive and speed of the read/write with respect to the medium. (See answer at page 4.) The examiner maintains that the combination would “inherently perform the control functions as claimed.” (See answer at page 5.) We disagree with the examiner. From our understanding of the operation of the buffers of Roth, the interrupts would cause a jump to a preceding portion of a track followed by determination of when the point of the interrupt is later reached to restart the reading or writing. (See Roth at column 2, lines 4-33.) Therefore, we disagree with the examiner’s statement that the control means would “cause the search to position the head at a next vacant track.” Rather, Roth merely teaches the jumping to a preceding portion of a track and resume operation when that prior position is reached. Therefore, the examiner has not provided a teaching of searching for a portion of a vacant track.

Appellant argues that Hashimoto merely teaches the storage of entire/complete pieces of information on one track or in continuous sequences of tracks and therefore does not record successive segments of a unitary piece of information interspersed with tracks or track portions containing other pieces of unrelated information which are to be retained in memory. (See brief at page 8.) We agree with appellant. In our view, Hashimoto teaches the profiling of tracks to identify vacant tracks and then utilizing

this information to record additional information therein. (Hashimoto at col. 4.) The examiner has not identified anywhere in Hashimoto where portions of tracks are used to store additional information. Rather, Hashimoto uses only completely vacant tracks to record additional information and if further information remains, then the next completely vacant track is accessed and information recorded therein.

The examiner maintains that the combination of Hashimoto and Roth teaches and suggests the invention as recited in claim 13. We disagree with the examiner. Here, the examiner maintains that his rejection and interpretation of the prior art is “[a]ccording to the interpretation of the claim language as described above.” (See answer at page 7.) As discussed above, we disagree with the examiner’s interpretation of the claimed invention, and the examiner’s discounting of appellant’s claim limitations and not according patentable weight thereto does not treat the claimed invention as a whole. Therefore, since the combination of Hashimoto and Roth does not teach or fairly suggest the invention as recited in claim 13, we cannot sustain the rejection of independent claim 13 and its dependent claims 14-16. Independent claim 17 contains similar limitations, therefore, we will not sustain the rejection of claim 17 and its dependent claims 18 and 19.

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### **CONCLUSION**

To summarize, the decision of the examiner to reject claims 10 and 13-19 under 35 U.S.C. §§ 102 and 103 is reversed.

### **REVERSED**

JOSEPH F. RUGGIERO  
Administrative Patent Judge

JOSEPH L. DIXON  
Administrative Patent Judge

ANITA PELLMAN GROSS  
Administrative Patent Judge

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